



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 2, 1991

Mr. Don R. Lane
City Attorney
P. O. Box 2499
Pampa, Texas 79066-2499

OR91-596

Dear Mr. Lane:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 14100.

You have received a request for information relating to a certain "911" call. Specifically, the requestor seeks access to a tape recording of a call made on a certain day at approximately 6:00 p.m. to the Pampa Police Department from a certain individual regarding an alleged drug overdose. You claim that the requested information is excepted from required public disclosure by constitutional and common-law privacy interests, as incorporated into the Open Records Act by section 3(a)(1).

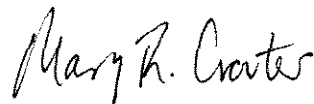
Section 3(a)(1) of the Texas Open Records Act excepts from required public disclosure "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." This section protects information only if its release would cause an invasion of privacy under the test articulated by the Texas Supreme Court in *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). In *Industrial Foundation*, the Texas Supreme Court ruled that common-law privacy excepts only "information contain[ing] highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person," provided "the information is not of legitimate concern to the public." However, when important public figures are

involved, a legitimate public concern may overcome any right of common-law privacy. Open Records Decision No. 455 (1987).

We have examined the transcript of the requested tape recording and the other documents submitted to us for review. Ordinarily, this information would be protected under section 3(a)(1). In this case, however, the subject of the "911" call has publicly discussed the details of his medical condition that necessitated the "911" call, and the transcript would add no new information to that already reported in the media. As a result, we cannot conclude that this information is private on the facts of this case. Accordingly, the requested information may not be withheld from required public disclosure under section 3(a)(1) of the Open Records Act and must be released.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-596.

Yours very truly,



Mary R. Crouter
Assistant Attorney General
Opinion Committee

MRC/GK/lcd

Ref.: ID# 14100

cc: Ms. Louise Fletcher
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